

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ISMAEL VARGAS PRECIADO,

Plaintiff,

v.

CASE NO. 07-CV-12453  
HONORABLE AVERN COHN

WAYNE CO. SHERIFF'S DEP'T. JAIL DIV.,

Defendant.

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**ORDER OF SUMMARY DISMISSAL**

I.

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff states that he is a federal inmate currently housed at the Wayne County Jail in Detroit, Michigan.

Plaintiff has been granted leave to proceed without prepayment of the filing fee for this action. Plaintiff sues the Wayne County Sheriff's Department Jail Division alleging that he had not been given personal mail and that some of his legal mail was not delivered. He alleges discrimination and a violation of his constitutional rights and says that he has suffered mental anguish. He seeks monetary damages.

For the reasons that follow, the complaint must be dismissed under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1) for failure to name a proper defendant.

## II.

A complaint must be dismissed before service on a defendant if the action is frivolous or malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. See 42 U.S.C. § 1997(e)(c); 28 U.S.C. § 1915(e)(2)(B). A *pro se* civil rights complaint is to be construed liberally. *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972).

## III.

Plaintiff names the Wayne County Sheriff's Department Jail Division as the sole defendant in this action. Section 1983 imposes liability on any "person" who violates an individual's federal constitutional or statutory rights. It is well-settled under Michigan law that county jails, sheriff departments, and other governmental agencies are not legal entities amenable to suit under § 1983. See *Petty v. County of Franklin, Ohio, et al.*, 478 F.3d 341, 347 (6<sup>th</sup> Cir. 2007). Plaintiff's § 1983 complaint against the Wayne County Sheriff's Department Jail Division must therefore be dismissed.

## IV.

For the reasons stated above, Plaintiff has failed to name a proper defendant in this action and has thus failed to state a claim upon which relief may be granted under 42 U.S.C. § 1983.

Accordingly, the complaint is **DISMISSED WITHOUT PREJUDICE** to the filing of a new complaint naming a proper defendant such as the Wayne County Sheriff and/or jail employees who allegedly mishandled his mail. The Court makes no determination about the merits of any such complaint.

Lastly, the Court concludes that an appeal from this order would be frivolous and

therefore cannot be taken in good faith. See 28 U.S.C. § 1915(a)(3); see also *McGore v. Wigglesworth*, 114 F.3d 601, 610-11 (6<sup>th</sup> Cir. 1997).

**SO ORDERED.**

s/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: July 24, 2007

I hereby certify that a copy of the foregoing document was mailed to the parties of record and Ismael Preciado, 072872, Wayne County Jail, 570 Clinton Street, Detroit, MI 48226 on this date, July 24, 2007, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager, (313) 234-5160